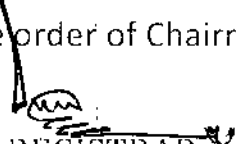


Form- A

FORM OF ORDER SHEET

Court of _____

Execution Petition No. 120/2023

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1	01.03.2023	<p>The execution petition Mr. Salman submitted today by Mr. Mehtab Sikandar Advocate. It is fixed for implementation report before Single Bench at Peshawar on _____. Original file be requisitioned. AAG has noted the next date. The respondents be issued notices to submit compliance/implementation report on the date fixed.</p> <p style="text-align: right;">By the order of Chairman</p> <p style="text-align: right;"> REGISTRAR</p>

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL

PESHAWAR.

Appeal No.564/2018

AA9

E.P. No. 120/2023

Salman (FC No.117) Appellant

Versus

Inspector General of Police, Peshawar and others..... Respondents

INDEX

S.No.	Description of documents.	Annexure	Pages.
1	Implementation application with affidavit.		1-2
2	Attested copy of order/ judgment dated 14.07.2022	A	3-5
3	Wakalatnama		7

.....
Appellant/ Petitioner

Through

.....
Mehtab Sikandar
Advocate High Court.

Dated: 27.02.2023

0314-3160571

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,

PESHAWAR.

Appeal No.564/2018

EP No. 120/2023

Salman (FC No.117) son of Shad Ali

R/o Mohallah Mama Khel, Tehsil Razar District Swabi..... Appellant

Versus

- 1) Inspector General of Police, Peshawar
- 2) Regional Police Officer, Mardan.
- 3) District Police Officer, Swabi
- 4) Sub Divisional Police Officer, Tehsil Razzar, District Swabi

..... Respondents

**Application for Execution/ implementation
of judgment/ order of Service Tribunal dated
14.07.2022.**

Respectfully Sheweth;

- 1). That this Hon'ble Tribunal vide order dated 14.07.2022 accepted appeal of applicant/ petitioner which was received by the applicant on 12.12.2022. (Attested copy of judgment/ order dated 14.07.2022 is attached as Annexure "A").
- 2) That petitioner approached the concerned authorities for the implementation of judgment/ order dated 14.07.2022, but they paid no heed.
- 3) That respondents are not executing/ implementing the order/ judgment dated 14.07.2022 of this hon'ble Tribunal and have committed clear contempt.

- 4) That justice demands that judgment of this Hon'ble Tribunal may please be implemented in true letter and spirit.

It is, therefore, humbly prayed that respondents may please be directed to execute/ implement the order/ judgment dated 14.07.2022 in true letter and spirit and all the back benefits be awarded after the decision of the Hon'ble Tribunal.

[Signature]
Appellant/ Petitioner

Through

[Signature]
Mehtab Sikandar
Advocate High Court.

0334-7130791

AFFIDAVIT

I, do hereby affirm and declare on oath that the contents of the **Application** are true and correct to the best of my knowledge and belief to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Tribunal.

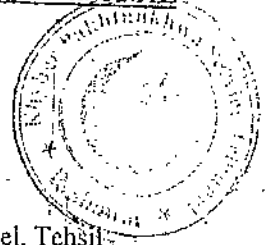
[Signature]
Deponent

[Signature]
01/13/27

3

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR

Service Appeal No...../2018



Salman FC No.117 Police Station Zaida, presently r/o Mohallah Mama Khel, Tehsil Razzar, District Swabi.....Appellant.

VERSUS

1. Inspector General of Police, Peshawar.
2. Regional Police Officer, Mardan.
3. District Police Officer, Swabi.
4. Sub Divisional Officer Tehsil Razzar.....Respondents.

APPEAL AGAINST THE ORDER DATED 17.10.2017 WHEREBY SERVICES OF THE APPELLANT WAS DISMISSED WHILE AWARDCING MAJOR PUNISHMENT UNDER KHYBER PAKHTUNKHWA POLICE RULES 1975 AND AGAINST THE FINAL ORDER DATED 26.03.2018 WHEREBY DEPARTMENTAL APPEAL FILED BY THE APPELLANT WAS REJECTED.

Respectfully Sheweth:-

1. That the appellant was appointed as Constable in Police Force of the Khyber Pakhtunkhwa on 17.03.2008 where after posted at various police station.
2. That appellant put in meritorious services in the department for long 9 years and at the relevant time was performing his duties on the grave of Mashal Khan a victim of the Abdul Wah Khan University Mardan Occurrence.
3. That without any information/reason a charge sheet with summary of allegation was served upon the appellant alleging therein that he has committed abetment and conspiracy in a murder case registered vide FIR No.364 dated 15.6.2017 Police Station Kalo Khan (copy of charge sheet and relevant document a/w summary of allegation are annexed as annexure "A" & "B" while FIR etc will be produced at the relevant time.)
4. That Sub Divisional Officer Razar Circle Karnal Sher Kaly was appointed as inquiry officer to conduct inquiry and inspite of the fact that it is neither proved from FIR nor the complainant has charge the appellant nor there is any evidence to connect the appellant with the alleged offence, but even then the

ATTESTED

(Signature)
Secretary, Peshawar
Khyber Pakhtunkhwa Service Tribunal

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subsequent dismissing of departmental appeal amount condemning him unheard.

g) That appellant be allowed to add/rely upon other grounds at the time of arguments.

It is therefore humbly prayed that on acceptance of this appeal the impugned order dated 17.10.2017 and final order dated 26.03.2018 rejecting departmental appeal may graciously be set aside and appellant be reinstated in the service with full back benefits in the interest of justice.

Any other order deem appropriate in the circumstances of the case may also be passed.

Selvan
Appellant

Through

Fida Muhammad Yousafzai,

And

Mehtab Sikandar,
Advocates.

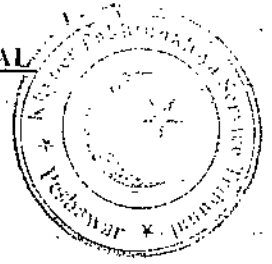
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(5)

**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR**

Service Appeal No:564/2018

Date of Institution 23.04.2018
Date of Decision 14.07.2022



Salman FC No.117 Police Station Zaida, presently R/O Mohallah
Mania Khel, Tehsil Razzar, District Swabi.

(Appellant)

VERSUS

1. Inspector General of Police Khyber Pakhtunkhwa, Peshawar.
 2. Regional Police Officer, Mardan.
 3. District Police Officer, Swabi.
 4. Sub Divisional Police Officer, Tehsil Razzar, District Charsadda.
- (Respondents)

Mehtab Sikandar,
Advocate

For appellant.

Muhammad Riaz Khan Paindakhel,
Assistant Advocate General

For respondents.

Salah Ud Din
Rozina Rehman

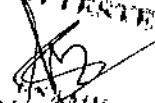
Member (J)
Member (J)

JUDGMENT

Rozina Rehman, Member(J): The appellant has invoked the jurisdiction of this Tribunal through above titled appeal with the prayer as copied below:

“On acceptance of this appeal the impugned order dated 17.10.2017 and final order dated 26.03.2018 rejecting departmental appeal may graciously be set aside and appellant be reinstated in the service with full back benefits in the interest of justice.”

2. Brief facts of the case are that appellant was appointed as Constable in the Police Force of Khyber Pakhtunkhwa on, 17.03.2008. At the relevant

ATTACHED

Rozina Rehman
Assistant Advocate General
Peshawar


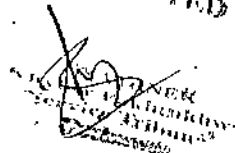
time, he was performing his duties on the grave of Mashal Khan, a victim of Abdul Wali Khan University Mardan. He was served with a charge sheet along with statement of allegations alleging therein that he had committed abetment and conspiracy in a murder case registered vide FIR No.364 dated 15.06.2017 of Police Station Kalu Khan. SDPO Razzar Circle was appointed as Inquiry Officer and the appellant was recommended for major punishment. Final show cause notice was also served upon him, wherein, he appeared in person and submitted reply but he was dismissed from service vide order dated 17.10.2017. He filed departmental appeal which was rejected, hence, the present service appeal.

3. We have heard Mehtab Sikandar Advocate, learned counsel for appellant and Muhammad Riaz Khan Paindakhel, learned Assistant Advocate General for the respondents and have gone through the record and the proceedings of the case in minute particulars.

4. Mehtab Sikandar Advocate, learned counsel for appellant inter-alia argued that the impugned order is against law, facts and material as the appellant was not treated in accordance with law and rules. It was contended that no proper inquiry was conducted as the appellant was not afforded proper opportunity of defense and he was not heard as required under the law nor his contention was incorporated in the inquiry report, therefore, the very proceedings conducted by the Inquiry Officer, his recommendation and subsequent dismissal order are of no legal effect.

5. Conversely, learned AAG submitted that on account of involvement of the appellant in a murder case, he was served with charge sheet and summary of allegations and after proper departmental inquiry, allegations against appellant were proved and he was recommended for major penalty.

He submitted that the order of the respondents are quite legal and **UNTESTED**



UNTESTED

7

accordance with law and that proper opportunity of defense was provided to him but he could not prove himself innocent. Lastly, it was argued that after fulfillment of all codal formalities, major punishment of dismissal from service was imposed upon appellant.

6. After hearing the learned counsel for the parties and going through the record of the case with their assistance and after perusing the precedent cases cited before us, we are of the opinion that one Amjad Ali registered FIR No.364 on 15.06.2017 at Police Station Kalu Khan District Swabi regarding murder of his son Tanveer by unknown accused, therefore, FIR was registered against unknown culprits. It was on 09.08.2017 when the present appellant was served with charge sheet alongwith statement of allegation for allegedly involved in the abetment and conspiracy of a murder in the holy month of Ramazan vide case FIR No.364 dated 15.06.2017. One Shah Muntaz Khan DSP Razzar was appointed as Inquiry Officer. The inquiry report is available on file, where-after, final show cause notice was issued and vide order of District Police Officer, Swabi dated 17.10.2017, appellant Constable Salman was awarded major punishment of dismissal from service. The order of competent authority as well as appellate authority would reveal that appellant was charged for being member of Police Force, had close contacts with notorious in the area of the Police Station Kalu Khan and that he involved himself in the abetment of a murder which was against discipline and amounted to gross misconduct. The judgment of the learned Additional Sessions Judge-IV Swabi is available on file, wherein, it has been clearly mentioned that statement of Hilal Ahmad and Kashif were recorded U/S 164 Cr.PC but instead of making them witnesses of the occurrence, they were made accused in the present case and that their respective statement did not fulfill the basic requirements for recording confessional statement of the accused. As the case

ATTESTED

ATTESTER
Sub-Inspector
District Tribunal
Swabi

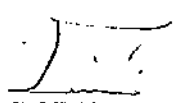
was full of doubts, therefore, all the seven accused including the present appellant Salman were acquitted and their sureties were discharged.

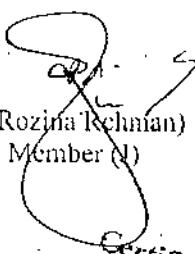
7. It has been held by the superior fora that all acquittals are certainly honorable. There can be no acquittal which may be said to be dishonorable. Involvement of the appellant in criminal case was the only ground on which he had been dismissed from service and the said ground had subsequently disappeared through his acquittal, making him re-emerge as a fit and proper person entitled to continue his service.

8. It is established from the record that charges of his involvement in criminal case ultimately culminated in honorable acquittal of the appellant by the competent court of Law. In this respect we have sought guidance from 1988-PLC (CS) 179, 2003 SCMR 215 and PLD 2010 Supreme Court, 695.

9. For what has been discussed above, this appeal is accepted and the impugned orders are set aside and the appellant is reinstated in service with all back benefits. Parties are left to bear their own costs. File be consigned to the record room.

ANNOUNCED.
14.07.2022


(Safii Ud Din)
Member (J)


(Rozina Rehman)
Member (J)

Date of Presentation of Application 15/7/22

Number of Pages 2400

Copying Fee 26/-

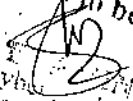
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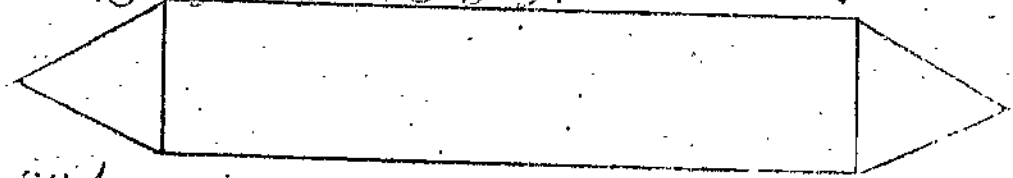
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Date of Submission of Copy 12/12/22

Date of Delivery of Copy 12/12/22

Certified to be true copy

Khushnigir
Service Tribunal
Peshawar

بعدالت
جسٹس جتو (سروس) ٹریڈ یونین پیسٹ



۲۰۰۰ منجانب سلمان

مرد

پتہ: انسپکٹر جنرل آف پولیس وٹیر

سلمان
FC No: (17)

Application for
Execution in
Appeal No: 584/2012

باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکیل
کارروائی متعلقہ آن مقام پستہ کے لئے تصدیقاً تسلیم فرماتا ہوں
مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کمال اختیار ہوگا۔ نیز
وکیل صاحب کو کرنے راضی نا۔ یہ دفتر ثالث فیصلہ پر حلف دینے جواب دہی اور اقبال دعویٰ اور
بصورت ڈگری کرنے اجراء اور وصولی چیک دروپیہ اور عرضی دعویٰ اور درخواست ہر قسم کی تصدیق
زیر اس پر دستخط کرانے کا اختیار ہوگا۔ نیز بصورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی اور
منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا اختیار ہوگا۔ اور بصورت ضرورت مقدمہ
مذکور کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنی بجائے تقرر کا اختیار
ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ بالا اختیارات حاصل ہوں گے۔ اور اس کا سائن
پرداختہ منظور و قبول ہوگا۔ دوران مقدمہ میں جو فرچہ دہر جانہ التوائے مقدمہ کے سبب سے ہوگا۔
اس کے مستحق وکیل صاحب موصوف ہوں گے۔ نیز بقایا فرچہ کی وصولی کرنے کا بھی اختیار ہوگا۔

Accepted

Signature

العبد گواہ شہد العبد

8c. 17-7405
cell: 0314-9160891

Salman

Supra S/o Shad AJ
CNIC - 16202-2664741-9
cell no - 0348-2559029